

TABLE 1.—FINAL SPECIFICATIONS OF ABC FOR 1989 FOR THE WASHINGTON, OREGON, AND CALIFORNIA REGION BY INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION AREAS—Continued

[In Thousands of Metric Tons]

Species	Area					Total
	Vancouver ¹	Columbia	Eureka	Monterey	Conception	
Remaining Rockfish	0.8	² 3.7	1.9	4.3	3.3	14.0
Flatfish:						
Dover Sole	2.4	11.5	8.0	5.0	1.0	27.9
English Sole						³ 1.9
Petrale Sole	0.6	1.1	0.5	0.8	0.2	3.2
Other Flatfish	0.7	3.0	1.7	1.8	0.5	7.7
Other Fish:						
Jack Mackerel ⁷						12.0
Others	2.5	7.0	1.2	2.0	2.0	14.7

¹ U.S. portion.² These species are not common or important in the areas footnoted. Accordingly, rockfish species are included in the "remaining rockfish" category for the areas footnoted only.³ Total all areas.⁴ "Other rockfish" means rockfish species at 50 CFR 663.2, as amended, which do not have a numerical OY.⁵ For management of the *Sebastes* complex of rockfish, the Columbia area is split into northern and southern parts at Coos Bay, Oregon (43°21'34"N. latitude), and ABCs for the Columbia area are prorated as follows:

Species	Columbia area Total	North of Coos Bay	South of Coos Bay
Canary	2.1	1.7	0.4
Yellowtail	2.9	2.8	0.1
Remaining rockfish	3.7	3.3	0.4

⁶ "Other fish" includes sharks, skates, ratfish, morids, grenadiers, and jack mackerel. "Other fish" is part of the "other species" category listed at 50 CFR 663.2.⁷ North of 39° N. latitude.

TABLE 2.—FINAL SPECIFICATIONS OF OY AND ITS DISTRIBUTION FOR 1989

[In Thousands of Metric Tons]

	Total OY	DAP	JVP ¹	DAH	Reserve	TALFF ¹
Pacific Whiting	225.0	18.0	207.0	225.0	0.0	0.0
Sablefish	10.4–11.0	10.4–11.0	0.0	10.4–11.0	0.0	0.0
Pacific Ocean Perch	² 1.3	² 1.3	0.0	² 1.3	0.0	0.0
Shortbelly Rockfish	10.0	1.0	5.0	6.0	2.0	2.0
Widow Rockfish	12.4	12.4	0.0	12.4	0.0	0.0
Jack Mackerel	12.0	0.0	0.0	0.0	2.4	9.6
Other Species	(³)					

¹ In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173 percent; Pacific ocean perch 0.062 percent; rockfish excluding Pacific ocean perch 0.738 percent; flatfish 0.1 percent; jack mackerel 3.0 percent; and other species 0.5 percent. In foreign trawl and joint venture fisheries, "other species" means all species, including nongroundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions and restrictions to the foreign fishing permit. See 50 CFR 611.70(c)(2) for application of incidental retention allowance percentages to joint venture fisheries.² Of this 1,300 metric tons, 500 metric tons is for the Vancouver area and 800 metric tons is for the Columbia area. Pacific ocean perch from other areas are included in the OY for "other species." See 50 CFR 663.21(a)(3).³ The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under 50 CFR 611.70 and Part 663. See 50 CFR 663.2 for species listing.**Classification**

This action is taken under the authority of 50 CFR 663.24 and is in compliance with Executive Order 12291. This action is covered by the Regulatory Flexibility Analysis prepared for the implementing regulations.

Authority: 16 U.S.C. 1801 *et seq.***List of Subjects in 50 CFR Parts 611 and 663**

Fish, Fisheries, Fishing, Foreign relations.

Dated: December 27, 1988.

James W. Brennan,

Assistant Administrator For Fisheries,
National Marine Fisheries Service.

[FR Doc. 88-30215 Filed 12-28-88; 4:36 pm]

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Proposed Rules

Federal Register

Vol. 54, No. 1

Tuesday, January 3, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 882-3135]

Budget Rent A Car Corp.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, Budget Rent A Car Corporation ("Budget") from failing to inspect and, if appropriate, repair its rental vehicles within a reasonable period of time (not to exceed 120 days) in response to manufacturers' safety recall notices. The consent would require respondent to generally disclose to prospective renters that the vehicles are subject to safety recall notices and may contain defects, if it chooses not to inspect.

DATE: Comments must be received on or before March 6, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lydia B. Parnes, FTC/H-238, Washington, DC 20580. (202) 326-3126.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will

be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

List of Subjects in 16 CFR Part 13

Automobile, Rental cars, Trade practices.

Budget Rent A Car Corp.; Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Budget Rent A Car Corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Budget Rent A Car Corporation, by its duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent, Budget Rent A Car Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 200 North Michigan Avenue, Chicago, Illinois 60601. Budget Rent A Car Systems, Inc., a wholly owned subsidiary of Budget Rent A Car Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 200 North Michigan Avenue, Chicago, Illinois 60601. For purposes of this agreement, the term "Proposed respondent" or "respondent" shall mean Budget Rent A Car Corporation and shall include Budget Rent A Car Systems, Inc.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint attached hereto.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. Proposed respondent retains all rights, including those rights provided by Section 5(b) of the FTC Act, 15 U.S.C. 45(b), and 16 CFR 2.51, 3.71 and 3.72, to petition the Commission to modify or set aside the Order due to changes in conditions of law or fact which may include, but shall not be limited to, recommended changes to an automobile manufacturer's regular vehicle preventative maintenance schedules for its vehicles; provided, however, that this provision shall not be interpreted to require the Commission to modify or set aside the Order on any particular ground.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the proposed complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the proposed complaint attached hereto. Proposed respondent denies that any law has been violated as alleged in the complaint attached hereto.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the proposed complaint attached hereto and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered,

modified or set aside in the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this Order, the following definitions shall apply:

1. "Affected vehicles" means respondent's rental fleet vehicles that are covered by recall notices received by respondent.

2. "Rental fleet vehicles" means those vehicles that respondent's corporate owned locations rent to the public.

3. "Manufacturer" means any person or entity engaged in the manufacturing or assembling of motor vehicles.

4. "Recall notice" means written notification from manufacturers to owners under the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1391 *et seq.*, and the rules and regulations promulgated thereunder, 49 CFR Part 577, that their vehicles may contain safety-related defects.

5. "Reasonable period of time" means a period of time not to exceed 120 days from the date the affected vehicle's notice of safety recall was received by respondent.

I.

It is ordered that respondent Budget Rent A Car Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporate or other device, in connection with respondent's corporate owned locations' advertising, offering for rental, or rental of any rental fleet vehicle in or affecting commerce,

as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing within a reasonable period of time after receipt of a recall notice, to inspect or to have inspected each such affected vehicle and to repair or to have repaired each such affected vehicle found to contain the safety defect(s); provided, however, that failure to comply with respect to any specific affected vehicle shall not be deemed to be a violation of this Order if respondent can demonstrate that such failure to comply was due to circumstances beyond its control, including, but not limited to, the unavailability of replacement parts to complete that affected vehicle's safety recall procedures, and if respondent can show that, upon learning of such failure to comply, it complied at the earliest practicable date.

II.

It is further ordered that respondent may elect, in lieu of the obligations set forth in Part I of this Order, to disclose, in a clear and conspicuous manner, to each prospective renter of an affected vehicle, that the affected vehicle is subject to a recall notice and has not been inspected or repaired.

III.

It is further ordered that for a period of two (2) years, respondent shall maintain at the place said documents are routinely kept and upon request make available to the Federal Trade Commission for inspection and copying:

1. Any recall notice received subsequent to the date of this Order and records sufficient to show the date or dates it was received from the manufacturer;

2. Records disclosing the vehicle identification number, make and model of every affected vehicle; and

3. Documents evidencing the inspection and, if required, the repair of affected vehicles.

IV.

It is further ordered that respondent shall:

1. Distribute a copy of this Order to all officers and any employee having responsibilities for recall procedures; and

2. Distribute a copy of this Order to all its existing and future U.S. licensees.

V.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may

affect compliance obligations arising out of this Order.

VI.

It is further ordered that respondent shall, within one hundred twenty (120) days after the date of service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to proposed consent order from Budget Rent A Car Corporation, ("Budget") 200 North Michigan Avenue, Chicago, Illinois 60601. Budget is the fourth largest automobile rental firm in the United States. The company primarily offers car and truck rental services to the general public.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charges Budget with failing to disclose to renters that it did not inspect, within a reasonable period of time, vehicles that were subject to recall notices.

The proposed consent order would prohibit Budget from failing to inspect and, if appropriate, repair its rental vehicles within a reasonable period of time in response to manufacturers' safety recall notices. Part I of the Order would require Budget to inspect and, if appropriate, repair each vehicle subject to a safety notice within a reasonable period of time, not to exceed 120 days, after receipt of that vehicle's recall notice.

Part II of the proposed consent order would give Budget the option to generally disclose to prospective renters, in a clear and conspicuous manner, that their cars are subject to a safety recall notice and may contain safety-related defects, if it chooses not to inspect.

Part III of the proposed consent order would require Budget to maintain, for a period of two years after each recall, copies of recall notice received from a manufacturer; records showing the vehicle identification, make and model of each affected vehicle; and documents evidencing inspection and, if required, the repair of affected vehicles.

Part IV of the proposed consent order would also require Budget to distribute a copy of the order to each of its officers and any employees who have responsibilities in connection with Budget's recall inspection procedures. It would require Budget also to distribute a copy of the proposed consent order to all its existing and future U.S. licensees. Finally, the proposed order would require Budget to notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure and to file a compliance report within 120 days after service of the order.

The purpose of this analysis is to facilitate public comment on the proposed order; it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 88-30148 Filed 12-30-88; 8:45 am]

BILLING CODE 6750-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Procedures Relating to Appeals of Denial of Requests for Confidential Treatment, Notification of Intent to Use Certain Equipment at Hearings, and Notification to Submitters of Confidential Business Information of a Request Under the Freedom of Information Act

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. International Trade Commission is considering adopting the following proposed rules relating to (1) the definition of the term "confidential business information"; (2) information and argumentation presented in conjunction with appeals to the Commission of denials of requests for confidential treatment; (3) notification of intent to use audio-visual or other equipment at hearings; and (4) notification to submitters of confidential business information of a request for disclosure of such information under the Freedom of Information Act.

The proposed rules, if adopted, would amend § 201.6 (relating to confidential business information), § 201.13 (relating to conduct of nonadjudicative hearings), and §§ 201.18-201.19 (relating to denials of requests for information under the Freedom of Information Act and appeals

thereof) of the Commission's Rules of Practice and Procedure (19 CFR 201.6, 201.13, 201.18, and 201.19). Present § 201.19, which relates to appeals from denial of requests for records, would be combined with present § 201.18, which relates to denial of requests for records. New § 201.18 would be entitled "Denial of requests, appeals from denial".

Promulgation of new rules with respect to notification to submitters of confidential business information, the fourth item identified above, is required by Executive Order 12600 of June 23, 1987 (52 FR 23781). The proposed rules largely reflect longstanding Commission practice and parallel final rules issued by the Department of Justice and published in the *Federal Register* of July 19, 1988 (53 FR 27161).

DATES: Comments must be received not later than February 2, 1989.

ADDRESS: Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: William W. Gearhart, Esq., Assistant General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1091.

SUPPLEMENTARY INFORMATION: The Commission's part 201 rules are of general application. The Commission's rules concerning requests for confidential treatment of business information are set forth in § 201.6, rules concerning conduct of nonadjudicative hearings are set forth in § 201.13, and rules relating to requests for agency records under the Freedom of Information Act are set forth in § 201.17-201.20.

None of the proposed amendments constitutes a "major rule" within the meaning of Executive Order No. 12291 (Improving Government Regulations), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), do not apply.

Definition of term "confidential business information". The first of the amendments would make clear the fact that "proprietary information" in section 777(b) of the Tariff Act of 1930 (19 U.S.C. 1677f(b)) is the equivalent of "confidential business information" in § 201.6(a) of the rules. The term "proprietary" in section 777(b) was substituted for "confidential" by the Tax Reform Act of 1986 to "clarify that the reference always is to sensitive company commercial and financial data rather than national security information at the 'confidential' level." Mudge Rose Guthrie Alexander & Ferdon v. U.S. International Trade Commission (Civil Action No. 87-5312, May 20, 1988,

D.C. Cir.). Section 777(b) provides for the submission and nondisclosure (except under limited circumstances) of proprietary information submitted to the Commission in connection with investigations conducted under the antidumping and countervailing duty laws (19 U.S.C. 1671 et seq.). Section 1886(a)(13)(A) of the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2922) substituted the terms "proprietary", "non-proprietary", and "proprietary status" for the terms "confidential", "nonconfidential", and "confidentiality" in section 777(b) and changed the title of section 777(b) to "proprietary information" from "confidential information".

Appeals of denials of requests for confidential treatment. The second of the amendments would add to the end of § 201.6(e) a new paragraph (3) providing that, (i) in the case of an appeal to the Commission of a denial by the Secretary or Acting Secretary of a request for confidential treatment, that justification for confidential treatment submitted to the Commission by the appealing party with the appeal shall be limited to that submitted to the Secretary; (ii) when the Secretary or Acting Secretary has denied a request for confidential treatment on the ground that the submitter failed to provide adequate justification, the submitter may file any such additional justification with the Secretary as part of an amended request for confidential treatment; and (iii) with respect to the 20-day period for filing an appeal set forth in paragraph (1) of § 201.6(e), that such period be considered to recommence as of the date any amended request had been denied, or approval or denial had not been forthcoming within 10 days of the filing of the amended request.

The Commission's present rules provide that requests for confidential treatment shall be submitted to the Secretary and that appeals shall be filed with the Chairman for consideration by the full Commission. However, present Commission rules are silent on the question of whether an appellant may submit additional justification with his appeal. It is estimated that about half the appeals filed in recent years have contained justification in addition to that submitted to or considered by the Secretary. In many cases it appears that the Secretary would have granted the request if he had considered the additional justification. As a result, the Commission has frequently become, in effect, a first level rather than second level reviewer of requests for confidential treatment. This submitting

of new justification to the Commission unnecessarily adds to the time it takes to dispose of a request (under the rules appeals are decided by the Commissioners in 20 working days, but initial requests are disposed of by the Secretary in 10 working days), unnecessarily adds to the Commissioners' dockets, and deprives submitters of a level of agency review (the second level of review effectively becomes the Federal courts).

Notification of intent to use certain equipment at hearings. Section 201.13 of the rules would be amended by adding at the end thereof a new subsection (1) that would direct parties wishing to use audio-visual equipment, easels, and other equipment in the course of their hearing presentation to advise the Secretary that they intend to use such equipment at least three (3) days in advance of the hearing. Parties in recent years have increasingly used such equipment in their hearing presentations.

Notification to the Secretary would (1) facilitate the conduct of hearings by giving the Secretary advance notice of the number and kinds of equipment to be used in order that he might anticipate and coordinate setups, (2) enable the Secretary to determine in advance whether Commission facilities can accommodate the equipment, and (3) enable the Secretary to advise parties as to the availability of Commission equipment, thus obviating the need in some instances for parties to bring their own equipment.

Notification to submitters of business information of a request for such information under the Freedom of Information Act. Executive Order 12600 of June 23, 1987 (52 FR 23781) requires that agencies publish rules with respect to notification to submitters of confidential business information of requests for such information under the Freedom of Information Act (5 U.S.C. 552). The proposed Commission rules, to be set forth in a revised § 201.19 of the Commission's rules, would provide for such notification, parallel rules issued by the U.S. Department of Justice and published in the Federal Register of July 19, 1988 (53 FR 27161), and largely reflect existing agency practice.

List of Subjects in 19 CFR Part 201

Administrative practice and procedure, Civil rights, Classified information, Confidential business information, Equal employment opportunity, Federal buildings and facilities, Freedom of information, Handicapped, Infants and children, Investigations, Lawyers, Postal Service,

Privacy, Signs and insignia, Sunshine Act.

PART 201—[AMENDED]

1. The authority citation for Part 201 continues to read as follows:

Authority: Sec. 335, 72 Stat. 690, sec. 401, 76 Stat. 902; 19 U.S.C. 1335, 1802, unless otherwise noted.

§ 201.6 [Amended]

2. Section 201.6(a) is amended by removing the designations "(1)" and "(2)" and by adding the following sentence to the end of the paragraph:

The term "confidential business information" includes "proprietary information" within the meaning of section 777(b) of the Tariff Act of 1930 (19 U.S.C. 1677f(b)).

3. Section 201.6 is amended by adding the following paragraph (e)(3):

(3) The justification submitted to the Commission in connection with an appeal shall be limited to that presented to the Secretary with the original or amended request. When the Secretary or Acting Secretary has denied a request on the ground that the submitter failed to provide adequate justification, any such additional justification shall be submitted to the Secretary for his consideration as part of an amended request. For purposes of paragraph (1) of this subsection, the twenty (20) day period for filing an appeal shall be tolled on filing of an amended request and a new twenty (20) day period shall begin once the Secretary or Acting Secretary has denied the amended request, or the approval or denial has not been forthcoming within ten (10) days of the filing of the amended request. A denial of a request by the Secretary on the ground of inadequate justification shall not obligate a requester to furnish additional justification and shall not preclude a requester from filing an appeal with the Commission based on the justification earlier submitted to the Secretary.

§ 201.13 [Amended]

4. Section 201.13 is amended by adding the following paragraph (1):

(1) To facilitate the conduct of hearings, parties intending to use easels, audio visual, and similar equipment in the course of hearing presentations should advise the Secretary of their intent to use such equipment at least three (3) working days before the hearing.

§§ 201.18 and 201.19 [Amended]

5. Section 201.18 is amended as follows:

(a) The title of § 201.18 is amended to read: "Denial of requests, appeals from denial."

(b) The text of present § 201.18 is redesignated as § 201.18(a).

(c) Paragraphs (a) through (d) of present § 201.19 are redesignated as paragraphs (b) through (e), respectively, of § 201.18.

6. Section 201.19 is revised to read as follows:

§ 201.19 Notification regarding requests for confidential business information.

(a) *In general.* Business information provided to the Commission by a business submitter which the Commission has designated as "confidential business information" will not be disclosed pursuant to a Freedom of Information Act (FOIA) request except in accordance with this section.

(b) *Definitions.* The following definitions are to be used in reference to this section:

"Confidential business information" means commercial or financial information that has been designated as confidential business information by the Commission under § 201.6 of this part.

"Submitter" means any person or entity who provides confidential business information, directly or indirectly, to the Commission. The term includes, but is not limited to, corporations, producers, importers, and state and foreign governments.

(c) *Notice to submitters.* Except as provided for in paragraph (e) of this section, the Commission will, to the extent permitted by law, provide a submitter with prompt written notice of a FOIA request or administrative appeal encompassing its confidential business information whenever required under paragraph (d) of this section, in order to afford the submitter an opportunity to object to disclosure pursuant to paragraph (f) of this section. Such written notice will describe the nature of the confidential business information requested. The requester will also be notified that notice and opportunity to object are being provided to a submitter.

(d) *When notice is required.* Notice will be given to a submitter in writing at submitter's last known address whenever:

(1) The information the subject of the FOIA request or appeal has been designated by the Commission as confidential business information; and

(2) The Commission has reason to believe that the information may not be protected from disclosure under FOIA Exemptions 3 or 4.

(e) *Exceptions to notice requirement.* The notice requirements of paragraph (c) of this section will not apply if:

(1) The Commission determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(f) *Opportunity to object to disclosure.*

In general, the Commission has 10 working days in which to respond to a FOIA request. Through the notice described in paragraph (c) of this section, the Commission will afford a submitter an opportunity, within the period afforded to the Commission to make its decision in response to the FOIA request, to provide the Commission with a detailed written statement of any objection to disclosure. Such statement shall be filed at least one working day before the Commission is required to respond to the FOIA request, and it shall specify all grounds for withholding any of the information under any exemption of FOIA. In the case of FOIA Exemptions 3 or 4, it shall demonstrate why the information should continue to be considered confidential business information within the meaning of § 201.6 of this part and should not be disclosed. The submitter's claim of continued confidentiality should be supported by a certification by an officer or authorized representative of the submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under FOIA.

(g) *Notice of intent to disclose.* The Commission will consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose the information. Whenever the Commission decides to disclose such information over the objection of a submitter, the Commission will forward to the submitter a written notice which will include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the information to be disclosed; and

(3) A specified disclosure date.

Such notice of intent to disclose will be forwarded to the submitter a reasonable number of days prior to the specified disclosure date and the requester will be notified likewise.

(h) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of information that the Commission has designated as confidential business information, the Commission will promptly notify the

submitter at its last known address. For the purpose of this paragraph, the Secretary may assume such address to be that given on the submission.

By order of the Commission,

Kenneth R. Mason,

Secretary.

Issued: December 20, 1988.

[FR Doc. 88-29807 Filed 12-30-88; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-158-86, 160-86]

Excise and Income Taxes; 401(k) Arrangements Under the Tax Reform Act of 1986 and Nondiscrimination Requirements for Employee and Matching Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to the *Federal Register* publication on Monday, August 8, 1988, beginning at 53 FR 29719 of the notice of proposed rulemaking. The proposed rules relate to cash or deferred arrangements described in section 401(k) of the Internal Revenue Code of 1986, and nondiscrimination rules for employee contributions and matching contributions made to employee plans contained in section 401(m) of the Code. These changes were made to the Code by the Tax Reform Act of 1986.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs, Office of the Assistant Chief Counsel, Employee Benefits and Exempt Organizations, 202-377-9372 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1988, proposed rules relating to cash or deferred arrangements and nondiscrimination rules for employee contributions and matching contributions were published in the *Federal Register* (53 FR 29719). The amendments were proposed to conform the regulations to changes in the applicable tax law made by the Tax Reform Act of 1986.

Need for Correction

As published, the proposed rules contain a typographical error which may prove to be misleading and is in need of correction.

Correction of Publication

Accordingly, the publication of the proposed rules (EE-158-86, 160-86), which was the subject of FR Doc. 88-17721 (53 FR 29719), is corrected as follows:

§ 1.401(k)-1 [Corrected]

On page 29730, in the third column, in § 1.401(k)-1(g)(8)(iii)(C), in the last line, "(g)(8)(ii) (A) and (B) of this section," should read "(g)(8)(iii) (A) and (B) of this section."

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 88-30213 Filed 12-30-88; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 301

[CC:D-1398-88]

Disclosure of Information

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations relating to the disclosure, under section 6103(n) of the Internal Revenue Code, of returns and return information, in connection with the procurement of property and services for purposes of tax administration. These proposed amendments give to the Tax Division, Department of Justice, the authority to make these disclosures under section 6103(n) for federal tax administration purposes. These proposed amendments affect all disclosures by the Tax Division, Department of Justice, made to any person(s) described in section 6103(n). These proposed amendments apply to all disclosures made after the effective date of this amended regulation.

DATES: These proposed amendments to the regulations are proposed to be effective March 6, 1989. Written comments and requests for public hearing must be delivered or mailed by February 2, 1989.

ADDRESS: Send comments and requests for a public hearing to: Internal Revenue Service, Attention: CC:CORP:T:R, Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: James N. Beyer of the Disclosure Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:D:Branch 2,